



The judgment

Introduction

Please contact a tribunal office or the Customer Contact Centre:

England and Wales: **0300 123 1024**; Scotland: **0141 354 8574** Textphone: **+44 (0)1509 221564** if you would like a copy of this booklet in Braille or large print.

Presidential Guidance

Under the Employment Tribunal Rules the Presidents of the Employment Tribunals in England and Wales and Scotland may issue Presidential Guidance. The aim of that guidance is to improve consistency in the way Employment Tribunals manage cases and enable the parties to better understand what is expected of them and what to expect. It is not binding but should be followed where possible.

The Presidential guidance issued by both Presidents may be found at:
www.gov.uk/employment-tribunals/legislation

How can I challenge the tribunal's judgment?

Employment Tribunal judgments may be changed only:

- if the tribunal decides, at the request of either party or on its own initiative to **reconsider** the judgment; or
- after an **appeal** by one of the parties (see below).

How can I get the tribunal to reconsider the judgment?

You can apply to the tribunal to ask it to reconsider a judgment. On reconsideration the original decision may be confirmed, varied or revoked. If it is revoked it may be taken again.

You can apply to have the judgment reconsidered orally at the end of the hearing or within 14 days of the date on which the judgment was sent to you by the tribunal office or within 14 days of the date on which the written reasons were sent (if later). Your application for a reconsideration of the judgment **must**, unless it was made in the course of the hearing, **be made in writing and must be copied to all the other parties**. An Employment Judge may extend the time limit for making an application for a reconsideration of a judgment.

In your application you must set out why it would be in the interests of justice for the original decision to be reconsidered. Your application will be considered by the Employment Judge who heard the case who may refuse it if he or she thinks that there is no reasonable prospect of the judgment being varied or revoked.

If the application is not refused, it will be sent to the other parties, who will be asked for their views on whether the application can be dealt with by the Judge without a hearing. Once replies are received the Judge will decide whether your application for a reconsideration of the judgment requires a hearing. If it does, you will be notified when and where to attend in due course.

A Tribunal will only reconsider any judgment where it is necessary in the interests of justice to do so.

The interests of justice do not mean a judgment or decision will be reconsidered just because you disagree with it. Something must have gone wrong at or in connection with the hearing or something has happened since the hearing which makes the judgment or decision unjust. If you apply for a reconsideration based on new evidence you must explain why the evidence was not available before and include a full statement of the evidence which you want to introduce. The tribunal has the power to refuse to reconsider the judgment, confirm it, vary it or revoke it. An application for reconsideration does not change the time limit for making an appeal and you may appeal while waiting for the result of the application.

There is a fee of either £100 or £350 to apply for reconsideration of the tribunal's judgment, depending on the type of claim. This fee is payable by the person who makes the application. You do not need to make the payment with your application. When we receive it we will write to you to tell you how much you need to pay and how to pay it. If you do not pay the fee then the application will not be considered.

How can I appeal against the tribunal's judgment?

If you believe that the tribunal has reached the wrong judgment because it has made an error of law, you can appeal to the **Employment Appeal Tribunal (EAT)**.

The grounds for appeal may be:

- that the tribunal has made a mistake in the application of the law; or
- that the judgment was one which no reasonable tribunal could have reached.

Further guidance on lodging an appeal can be found in the leaflet 'I want to appeal to the Employment Appeal Tribunal' – T440 – at: <http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do> and the "Practice Statement: Notices of Appeal and Skeleton Arguments" which can be found on the following link www.judiciary.gov.uk/publications/practice-statement-notices-of-appeal-and-skeleton-arguments/

From 29 July 2013 you will have to pay a fee when you lodge your appeal with the Employment Appeal Tribunal. If you do not pay the appropriate fee then the EAT will not process your appeal.

For further information, read our EAT fees guidance note - T437- at the following link: <http://hmctsformfinder.justice.gov.uk>

You can get an appeal form from:

Employment Appeal Tribunal, Second Floor, Fleetbank House, 2-6 Salisbury Square,
London EC4Y 8AE

Or, in Scotland from:

Employment Appeal Tribunal, 52 Melville Street, Edinburgh EH3 7HS

If you have any questions about the appeal you should address them to the Registrar of the EAT. **You can also get appeal forms and general information** about the EAT and how to appeal from www.gov.uk/appeal-employment-appeal-tribunal

You must send a copy of any claim and response, the tribunal judgment and the written reasons for the judgment with your notice of appeal or an explanation as to why any missing document is not included. See the section on page 4 if you wish to ask for written reasons for the judgment.

You must serve a valid notice of appeal on the EAT at:

Second Floor, Fleetbank House, 2-6 Salisbury Square, London EC4Y 8AE

Or, in Scotland at:

52 Melville Street, Edinburgh EH3 7HS

There are strict time limits, which you must observe, for making any appeal.

Where the judgment contains written reasons you must appeal within 42 days of the date on which the judgment was sent to you.

Where the judgment does not contain written reasons you should request them from the tribunal within 14 days of the date on which the judgment was sent to you and you must then appeal within 42 days of the date on which the written reasons are sent to you.

Where the judgment does not contain written reasons and you do not request them within 14 days of the date on which the judgment was sent to you, you must appeal within 42 days of the date on which the judgment was sent to you with an explanation as to why you have not obtained written reasons.

For example, if this date was a Wednesday, the EAT must receive your appeal **no later than 4pm on the Wednesday 42 days (six weeks) later**. You **must** get your appeal to the Employment Appeal Tribunal (**not the employment tribunal office**) in plenty of time **before** the end of the 42 day period, particularly if you choose to send your notice of appeal by post as you must allow for postal delays.

If you have not received an acknowledgement from the EAT within seven days of posting the notice of appeal, you should contact the EAT to confirm they have received your appeal.

In England and Wales phone 020 7273 1041, fax 01264 785 028 or
e-mail Londoneat@hmcts.gsi.gov.uk

In Scotland phone 0131 225 3963, fax 01264 785 030 or
e-mail Edinburgheat@hmcts.gsi.gov.uk

Relationship between application for reconsideration and appeal

An application for reconsideration does not change or extend the 42 day time limit for appealing. If you apply to the tribunal to reconsider its judgment, you may also appeal to the Employment Appeal Tribunal. You must also lodge with the Employment Appeal Tribunal a copy of the application for reconsideration and, if such application has been heard and determined, then also a copy of the tribunal's judgment on the reconsideration application.

When you have made an appeal, the Employment Appeal Tribunal may want to examine documents or other exhibits produced in evidence at the hearing.

The tribunal normally destroys files within one year of sending the judgment to the people involved but if there is an appeal the file will be kept for longer.

Asking for written reasons for the judgment

You should make your request for written reasons for your judgment at the hearing or within 14 days of the date on which the judgment was sent to the parties. That request should be made to the tribunal office which sent the judgment.

Legal advice (on appeals) and legal representation

Depending on your financial situation, you may be able to get free or reduced cost legal advice about reconsiderations and appeals. You may also be able to get representation free or at a reduced cost for an appeal before the Employment Appeal Tribunal.

You will need to show:

- that according to a test of your income and savings, you cannot afford to pay for representation yourself; and
- that your case is strong enough to make it worthwhile for you to be represented out of public funds.

In England and Wales

If your case concerns discrimination in employment, you may be eligible for free legal aid advice.

Visit www.gov.uk/legal-aid to find out more or contact Civil Legal Advice on 0345 345 4345.

In Scotland

Legal aid is available if you meet certain conditions. If you have questions about legal aid or advice, contact a solicitor or the The Scottish Legal Aid Board, Thistle House, 91 Haymarket Terrace, Edinburgh, EH12 5HE (phone 0131 226 7061).

To find out more about public funding for legal services, see the Scottish Legal Aid Board's website at www.slab.org.uk

What to do if you have not received the money which the tribunal has awarded you

Employment Tribunals are not responsible for the enforcement of their own awards. If you do not receive the money which the tribunal has awarded you will need to pursue it through one of the enforcement methods available.

You can inform a penalty officer, who may issue a financial Penalty Notice to the respondent. You may also be able to get a court to force them to pay. You will not be able to do either of these, if the respondent has appealed, or is about to.

Informing a Penalty Officer

If the respondent has not paid your award, you can contact a penalty officer who will issue a **Warning Notice** to let them know that they may have to pay a **Financial Penalty** to the Government. This is in **addition** to the award you are owed. If the **Warning Notice** is ignored and payment is still not made the penalty officer may issue the respondent with a financial penalty.

The service of the penalty officer is **free of charge** and is intended to encourage the employer to pay the award you are owed.

You can notify the penalty officer by completing a Penalty Enforcement Form. A copy of the form can be obtained by emailing ETPenalties@BIS.gsi.gov.uk or alternatively you can telephone 020 7215 5000 to request a copy.

If the award remains unpaid, you can still apply to the court to force them to pay.

In England and Wales the enforcement route is through the county court, however you can use the Employment Tribunal Fast Track scheme to assist you. This scheme allows you to have a High Court Enforcement Officer (HCEO) assigned to your case as soon as the respondent has failed to make the payment as directed by the Tribunal. Once appointed the HCEO will commence enforcement proceedings within the county court on your behalf. Details of the scheme and its requirements can be found in leaflet EX727, which can be obtained from your local county court or online at hmctsformfinder.justice.gov.uk

A requirement of the Employment Tribunal Fast Track scheme is that the original notification of the award is filed with the court. If you need a certified copy of the judgment, you can get one free of charge by applying to the Tribunal office dealing with your case.

The HCEO will issue a writ on your behalf, which will allow him to seize and sell the respondent's goods if money is not forthcoming. If, however, you would prefer to use a different method of enforcement or just not use the Fast Track scheme then leaflet EX328 which can be obtained from your local county court or online at: hmctsformfinder.justice.gov.uk explains your options.

For information explaining the procedure and details of which court to use, please visit www.gov.uk

In Scotland, you should write to the office in which your case was heard asking for an extract of the judgment. You will be sent an extract of the judgment by the tribunal office which a Sheriff Officer may use to enforce the payment. Once the extract has been issued the tribunal can do no more to help you with enforcement. Do not ask for an extract until the end of the time allowed for appeal to the Employment Appeal Tribunal, that is, 42 days from the date on which the judgment was sent to you.

What happens if you do not comply with the tribunal's judgment

You must abide by the tribunal's judgment. If you have been ordered to make a payment to the other party/parties and you fail to do this, within the directed timescale, you may be issued with a financial penalty and the following consequences will apply:

If you are a respondent in England and Wales.

- Enforcement action for the amount outstanding can be issued against you in the county court or High Court.
- All methods of Court enforcement (including execution, distress, bankruptcy and insolvency) will be available to the other party/parties.
- If enforcement action is taken against you, the county court or High Court in which this action is taken will provide the following details of the award to Registry Trust Ltd, and the details will be automatically entered in the Register of Judgments, Orders, Fines and Tribunal Decisions:
 - your full name
 - your address
 - your date of birth (if known)
 - the amount of the award
 - the case number
- This Register is maintained by Registry Trust Ltd. The Register can be searched by members of the public and is often consulted by banks, building societies and credit companies when considering applications for credit and other actions.
- Once entered, your personal details and the details of your debt will remain on this Register for a period of 6 years unless paid within one month of registration.

If you are a respondent in Scotland.

A Sheriff Officer will be able to enforce an Employment Tribunal judgment in the same way as if it were a Sheriff Court decree. The sheriff officer will take such steps as may be appropriate in the circumstances to enforce payment of the award and, if all else fails, it is open to the creditor to apply to the court to have the debtor sequestrated (judged bankrupt).

Please remember any enforcement action will result in additional costs, which will be added to the amount outstanding and for which you will be responsible.

Financial penalties

Employment tribunals will have the power, where a claim has been made after 6 April 2014, to order a respondent who has lost a case to pay a financial penalty of up to £5,000 if it considers that the respondent's breach of the claimant's employment rights had 'one or more aggravating features'. The minimum amount of any penalty will be set at £100.

Where a financial penalty has been ordered against a respondent the financial penalty will be payable to the Secretary of State and not to the claimant.

You will be contacted by a Debt Collection Agency appointed by the Department for Business Innovation and Skills who will explain the payment process.

If the penalty is paid within 21 days sum payable will be reduced by 50%.

Enforcing orders for reinstatement, re-engagement and recommendations

If the tribunal has ordered your employer either to reinstate or re-engage you or, in a discrimination case, made a recommendation, and the order or recommendation has not been carried out or complied with you should write to the tribunal office handling your case. You must do this as soon as the date for your employer to comply with the order has passed. The tribunal will then arrange a further hearing before the same tribunal and it may order your employer to pay you extra compensation.

Redundancy and other payments and insolvent employers

If the tribunal has decided that you are entitled to a redundancy payment and you are having difficulty getting your former employer to pay you, or it made an award for unpaid wages, holiday pay, notice pay or guarantee pay and your employer is insolvent, you should contact the Redundancy Payments Service at:

www.gov.uk/redundant-your-rights

Redundancy payments helpline

Telephone: 0330 331 0020 Monday to Friday, 9am to 5pm

Employment tribunal offices

Aberdeen	Mezzanine Floor, Atholl House, 84-88 Guild Street, Aberdeen AB11 6LT	t. 01224 593137 e. aberdeenet@hmcts.gsi.gov.uk
Bristol	Bristol Civil and Family Justice Centre, 2 Redcliff Street, Bristol BS1 6GR	t. 0117 929 8261 e. bristolet@hmcts.gsi.gov.uk
Cardiff	2nd Floor, Caradog House, 1-6 St Andrews Place, Cardiff CF10 3BE	t. 029 2067 8100 e. cardiffet@hmcts.gsi.gov.uk
Dundee	Ground Floor, Block C, Caledonian House, Greenmarket, Dundee DD1 4QB	t. 01382 221578 e. dundeeet@hmcts.gsi.gov.uk
East London	2nd Floor, Anchorage House, 2 Clove Crescent, London E14 2BE	t. 020 7538 6161 e. eastlondon@hmcts.gsi.gov.uk
Edinburgh	54-56 Melville Street, Edinburgh EH3 7HF	t. 0131 226 5584 e. edinburghet@hmcts.gsi.gov.uk
Glasgow	Eagle Building, 215 Bothwell Street, Glasgow G2 7TS	t. 0141 204 0730 e. glasgowet@hmcts.gsi.gov.uk
Huntingdon	Huntingdon Law Courts, Walden Road, Huntingdon PE29 3DW	t. 01480 415600 e. huntingdonet@hmcts.gsi.gov.uk
Leeds	4th Floor, City Exchange, 11 Albion Street, Leeds LS1 5ES	t. 0113 245 9741 e. leedset@hmcts.gsi.gov.uk
London Central	Victory House, 30-34 Kingsway, London WC2B 6EX	t. 020 7273 8603 e. londoncentralet@hmcts.gsi.gov.uk
London South	Montague Court, 101 London Road, West Croydon CR0 2RF	t. 020 8667 9131 e. londonsouthet@hmcts.gsi.gov.uk
Manchester	Alexandra House, 14-22 The Parsonage, Manchester M3 2JA	t. 0161 833 6100 e. manchesteret@hmcts.gsi.gov.uk
Midlands (East)	Nottingham Justice Centre Carrington Street, Nottingham NG2 1EE	t. 0115 947 5701 e. midlandseastet@hmcts.gsi.gov.uk
Midlands (West)	Centre City Tower, 7 Hill Street, Birmingham B5 4UU	t. 0121 600 7780 e. midlandswestet@hmcts.gsi.gov.uk
Newcastle	Kings Court, Earl Grey Way, Royal Quays, North Shields, Tyne & Wear, NE29 6AR	t. 0191 260 6900 e. newcastleet@hmcts.gsi.gov.uk
Watford	3rd Floor, Radius House, 51 Clarendon Rd, Watford WD17 1HP	t. 01923 281 750 e. watfordet@hmcts.gsi.gov.uk

Our offices are open from 9.00am to 5.00pm Monday to Friday.

We will direct you to a map showing the location of the office where the hearing has been arranged.

Customer Contact Centre: England and Wales: **0300 123 1024**;
Scotland: **0141 354 8574** Textphone: **+44 (0)1509 221564**